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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

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Application Number	Filed
10/646,929	Aug. 25, 2003

First Named Inventor: Dr. Paul K. Piotrkowski

Art Unit	Examiner
2872	Thong Nguyen

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record. Registration number 33148
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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9/28/2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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OIPE IAP68 SEP 28 2005 PATENT & TRADEMARK OFFICE

Application No. 10/646,929 Sept. 28, 2005
Filed Aug. 25, 2003
Title: Stereo Microscope
Inventor: Dr. Paul K. Piontkowski
Examiner: Thong Nguyen
Group Art Unit: 2872

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Final Rejection of claims 12, 15 – 17 and 22 – 24 by the Examiner is considered improper and it is requested that these claims be allowed and the application passed to issue for the following reasons:

Claim 12

(1) The claim recites " a lens magnification changer rotatably mounted about an axis and a first series of bores (35) located about the periphery of said lens magnification changer in a common plane and extending diametrically through said lens magnification changer, a second series of bores (36) located about the periphery of said lens magnification changer in a common plane and extending diametrically through said lens magnification changer, a lens assembly located in each bore of said first and second series" which is not taught in the applied references.. In the Takizawa et al patent, there are two series of bores in a common plane. However, each series includes only two bores extending through the member 21, and only one of these bores includes a lens assembly. The other bore comprises a passage for photography (See col. 3, lines 20 – 24).

(2) The claim recites "one or more light emitting diodes located in said hollow elongated body adjacent said objective lens". None of the art cited discloses this and

especially in a binocular microscope. In Takizawa et al, the light source 3 is located outside of the binocular microscope. In Yamamoto et al, the device is not a binocular microscope and the light source is not located in a hollow elongated body through which the optical path extends and adjacent an objective lens which is located at an end of the hollow elongated body. In Harooni et al, the light source 145 is located in a separate housing attached to the housing enclosing the optical path, and the light is directed through the housing enclosing the optical path by a mirror 160. There are no light emitting diodes located adjacent an objective lens which is located in an end of a housing enclosing the optical paths.

Claim 15

This claim is considered patentable over the prior art cited for reasons as stated above for claim 12 and for the following reason: None of the prior teaches the combination of a binocular microscope including an objective lens in a end of an elongated hollow body enclosing the optical path and having light emitting diodes adjacent the lens and a reflector behind the light emitting diodes and a pivotally mounted light filter in front of at least one of the light emitting diodes. The examiner has provided no evidence to show that this combination would have been obvious to one of ordinary skill in the art.

Claim 24

This claim is considered patentable over the prior art cited for the reasons as stated above for claim 12 and as follows: It is believed that the examiner has misinterpreted the disclosure in the Takizawa et al patent. Claim 24 recites that the two optical paths lie in a

common plane. The optical path as illustrated in Fig. 2 of Takizawa et al is a side view of the optical paths shown in Fig. 1. The optical paths through prisms 14a and 14b would not appear to lie in a common plane.

Claim 16

This claim is considered patentable over the prior art cited for the reasons as stated above for claim 12 and as follows: The oculars as disclosed in Blaha et al do not pivot in a plane that is common to the optical paths extending through the microscope as recited. Further, it would be very difficult requiring extraordinary skill, if at all possible, to substitute the pivoting oculars of Blaha et al for the oculars in the microscope of Takizawa et al and still have the same type of microscope. Thus, this would not have been an obvious modification to one of ordinary skill in the art.

Claim 17

This claim is considered patentable over the prior art cited for the reasons as set forth above for claim 12 and for the following reasons: The claim calls for an adjustable arm attached at one end to a support and at an opposite end to said microscope by a connection allowing pivoting at the microscope in any direction in combination with an attachment connecting the microscope to the head of an operator. In Fig. 4 of applicant's drawings, please note that there is a ball joint 16 where the adjustable arm is connected to the microscope. This connection at the microscope allows pivoting the microscope in any direction and the adjustable support arm supports substantially all of the weight of the microscope. The attachment between the head of the operator and the microscope is used mainly to position the microscope. There is no connection at the microscope in the cited

prior art that allows pivoting the microscope in any direction.

Claims 22 – 23

These claims are considered patentable over the prior art cited by the examiner for the reasons as stated above for claim 12 and for the following reasons: Fogle does not teach two oculars, prism assemblies and a lens magnification changer located on a base section of an internal mount located within a hollow elongated body and the examiner does not explain how or why it would be obvious to one of ordinary skill in the art to modify the microscope of Takizawa et al to include the limitations in claim 22. Claim 23 recites that the hollow elongated body is formed by shells fastened together and enclosing said internal mount. Fogle further does not teach that the hollow elongated body is formed by shells fastened together and enclosing an internal mount. The examiner does not explain how the microscope of Takizawa et al would be modified to include these limitations and why such a modification would be obvious to one of ordinary skill in the art.

Respectfully submitted,

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